

### **REMARKS**

Reconsideration of the application is respectfully requested.

#### **I. Status of the Claims**

Claims 1, 2, 4 - 10, and 16 are presently pending, with claims 3 and 11 - 15 having previously been canceled.

Applicant cancels claims 4 and 6 - 8, amends claims 1, 2, 5, 9 and 16, and adds new claim 19. No new matter is introduced. Support for the amendments may be found, for example, in Applicant's specification at page 17, lines 4 - 18, page 36, line 20 through page 38, line 4, and with reference to Applicant's canceled claims 3 and 8.

#### **II. Rejections under 35 U.S.C. § 103(a)**

Claims 1, 2, 4 - 7, 10 and 16 - 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,457,681 to Wolf et al. ("Wolf") in view of U.S. Patent No. 6,247,994 to DeAngelis et al. ("DeAngelis") and U.S. Patent No. 6,270,040 to Katzer ("Katzer"). Claims 8 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wolf in view of DeAngelis, Katzer and U.S. Patent No. 6,109,186 to Smith et al. ("Smith").

As claims 4 and 6 - 8 have been canceled without prejudice of disclaimer, the rejections as to claims 4 and 6 - 8 are moot. Applicant amends claims 1, 2, 5, 9 and 16 to further clarify the nature of his invention, and respectfully traverses the rejection of claims 1, 2, 5, 9, 10 and 16 - 18 under 35 U.S.C. § 103(a).

In amended independent claim 1, Applicant claims:

1. A remote control toy system comprising:

a plurality of sets, each set including a controller and a model controlled based on data transmitted from the controller, the transmitted data corresponding to an operation of the controller for controlling an operation of the model; and

an accessory device, provided separately from the controllers and the models, for conducting data communication with the controllers and the models,

wherein each of the controllers, the models, and the accessory device separately comprises:

a radio communication module for executing the data communication and for conducting bilateral data communication; and

a control device for implementing various controls based on data communication conducted through the radio communication module, wherein:

each model travels in accordance with information describing a correspondence between operation of the controller and an action of the model, and

each model comprises a detection device for detecting course position information upon passing a predetermined position on a race course and outputting a signal indicating the detected course position information,

the control device of each model comprises:

a device for making a predetermined decision concerning a course position based on the output signal of the detection device; and

a device for generating data corresponding to a result of the decision and sending the data through the radio communication module of the model,

the control device of the accessory device comprises:

a device for receiving data sent from the model associated with the output signal of the detection device, the output signal being received through the radio communication module of the accessory device;

a device for determining restrictions concerning the travel of at least one model, based on the received data; and

a device for generating data corresponding to the determined restrictions and sending the generated data through the radio communication module of the accessory device, and

the control device of the controller or the model comprises:

a device for receiving data corresponding to the restrictions sent from the accessory device, through the radio communication module; and

a device for setting the information describing the correspondence between operation of the controller and an action of the model based on the received data.

(Emphasis added).

In a previous Response to Office Action, Applicant made the following arguments:

Wolf discloses a control and operating system for model trains (see, e.g., abstract of Wolf), and DeAngelis discloses a system for controlling a plurality of toy vehicles (see, e.g., abstract of DeAngelis). Applicant submits that Wolf's accessories 18', AIU 18 and TIU 12, DeAngelis' central station 64, and Smith's intermediate control device 8 respectively and most nearly correspond to the accessory device of Applicant's remote control toy system in amended independent claim 1.

In sharp contrast to Applicant's system as claimed in amended independent claim 1, Applicant submits that none of Wolf, DeAngelis or Smith teach or suggest an accessory device having a control device that includes a device for executing a predetermined procedure based on an information input made by a user from the information input section of the accessory device; and a device for generating data corresponding to a result of the procedure and sending the data through the radio communication module for independently altering the implementation of one of various controls for the plurality of controllers or the plurality of models.

In particular, each of Wolf, Smith and DeAngelis fails to teach or otherwise suggest an accessory device that is capable of independently altering the implementation of one of various controls for the plurality of controllers or the plurality of models. For example, while Wolf's TIU 12 and DeAngelis' central station 64 are operative to respectively forward data signals received from controllers 16, 42 to models 68, 12, neither Wolf's TIU 12 nor DeAngelis' central station 64 is further operative to transmit signals to the controllers 16, 42 for altering the implementation of a control by the controller 16.

While Smith discloses that the intermediate control device 8 is capable of receiving information from a model (car) for controlling a speed of the car independently from the controllers (see, e.g., Col. 2: 26 - 35 of Smith), Smith fails to disclose that the intermediate control device 8 is also capable of transmitting data to the controller 16 to alter the implementation of a control by the controller 16. Moreover, Smith fails to disclose that the information received by the car is based on information input by an entity other than a controller or model (i.e., by a user) to the intermediate control device 8.

In the present Office Action, the Examiner concedes that the combination of Wolf, DeAngelis and Smith fails to teach an accessory device able to preclude or alter controls administered by a controller to a model, but suggests that this deficiency is overcome with the addition of Katzer:

Katzer [ ] teaches a software system that issues a stop command to a train if a collision is imminent (see, e.g., Col. 45. Lines 47 – 57). While the software system does not preclude a user from transmitting control information via a controller, it alters the implementation for a control by simply sending a stop command to a moving train.

With reference to canceled claim 8, the Examiner acknowledges that Wolf fails to teach a remote control toy system which includes “a device for determining restrictions, a device for generating data corresponding to the determined restriction, and the control device ... for receiving data corresponding to the restrictions ... [and] for setting a corresponding relationship between the operation of the controller and the action of the model based on receiving the data.” The Examiner however suggests that this deficiency is overcome with the addition of Smith.

Applicant presently amends independent claim 1 to indicate that each model includes a detection device for detecting course position information upon passing a predetermined position on a race course, and outputting a signal indicating the detected course position information. Further, a control device of each model includes a device for making a predetermined decision concerning a course position based on the output signal of the detection device; and a device for generating data corresponding to a result of the decision and sending the data through the radio communication module of the model to the accessory device. The accessory device then determines restrictions concerning the travel of at least one model, based on the decision data sent by the models.

Applicant respectfully submits that none of Wolf, DeAngelis or Katzer discloses or otherwise suggests a toy system as claimed by Applicant in which information is obtained from each of a plurality of moving models in order to control at least one of the models. Similarly, although Smith discloses an intermediate control device that controls the travel of slot cars in response to a status of track activities (see, e.g., Col. 2: 20 – 38 of Smith), Smith never-the-less fails to teach an intermediate control device which bases its control actions on course position decision information obtained directly from the plurality of model cars. Rather, in the slot car systems of Smith, status is detected by an detecting intermediate control device detecting a track condition, rather than based on position information detected by each of the cars (see, e.g., Col. 2: 30 – 35).

As compared to the cited prior art, by deriving restriction controls from information detected by each of a plurality of model cars engaged in a race, Applicant's claimed system provides the distinct advantage of enabling the control system to be extended to race systems which do not use tracks, lanes, rails and other similar course-confining structures, thereby providing a more flexible and challenging racing experience.

For at least the above-presented arguments, Applicant submits that amended independent claim 1 is not made obvious by any combination of the cited references, and stands in condition for allowance. Applicant reapplies these same arguments with reference to amended independent claim 16, which essentially includes the same distinguishing features, and submits thereby that claim 16 is also allowable. As claims 2, 5, 9, 10, 17 and 18 each depend from allowable independent claim 1, Applicant further submits that dependent claims 2, 5, 9, 10, 17 and 18 are also allowable for at least this reason.

Accordingly, Applicant therefore requests that the rejection of claims 1, 2, 5, 9, 10 and 16 - 18 under 35 U.S.C. § 103 be withdrawn.

**II. New Claim**

Applicant adds new claim 18. As new claim 19 depends from allowable independent claim 1, Applicant submits that new claim 19 is also allowable for at least this reason.

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

The Examiner is respectfully requested to contact the undersigned at the telephone number indicated below once he has reviewed the proposed amendment if the Examiner believes any issue can be resolved through either a Supplemental Response or an Examiner's Amendment.

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Respectfully submitted,

By   
Thomas J. Bean

Registration No.: 44,528  
DARBY & DARBY P.C.  
P.O. Box 5257  
New York, New York 10150-5257  
(212) 527-7700  
(212) 527-7701 (Fax)  
Attorneys/Agents For Applicant